

## SWELLENDAM MUNICIPALITY

### SWELLENDAM MUNICIPAL BY-LAW RELATING TO PUBLIC AMENITIES

To regulate the use of beaches and amusement facilities, local amenities, local sport facilities, municipal parks and recreation and public places and to provide for matters connected therewith.

#### PREAMBLE

WHEREAS section 156(2) and (5) of the Constitution provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions;

AND WHEREAS Part B of Schedule 5 to the Constitution lists beaches and amusement facilities, local amenities, local sport facilities, municipal parks and recreation and public places as a local government matter to the extent set out in section 155(6) (a) and (7);

AND WHEREAS the Swellendam Municipality seeks to regulate the use of beaches and amusement facilities, local amenities, local sport facilities, municipal parks and recreation and public place;

BE IT ENACTED by the Council of the Swellendam Municipality, as follows:—

#### 1. Definitions

In this bylaw, unless inconsistent with the context: -

**"authorised official"** means any official of the municipality who has been authorised by the municipal manager to manage the public amenity or to enforce the provisions of this by-law;

**"Council"** means the council of the municipality of Swellendam and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this By-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"Municipality"** means the Swellendam Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this By-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

**"municipal manager"** is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, Act 117 of 1998, and includes a person:-

(a) acting in such position; and

(b) to whom the municipal manager has delegated any power, function or responsibility;

**"notice"** means a notice displayed by order of the municipal manager at every entrance to or at a conspicuous place at or on a public amenity wherein the conditions for entry to the public amenity in terms of this bylaw are set out;

**"public amenity"** means:-

(a) any land, square, camping site, swimming bath, beach, bathing area, sport field, public resort, public open space, recreation site, river, nature reserve, zoological, botanical or

other garden or park or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the Municipality and to which the general public has access, whether on payment of admission of fees or not, but excluding a public road or street;

- (b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the Municipality and to which the general public has access, whether on payment of admission of fees or not; and
- (c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the Municipality;
- (d) a facility contemplated in paragraphs (a) to (c), in the sea, between the high and low water marks of a beach, or on an area directly adjacent to a beach, and includes a pavilion, pontoon, jetty, or similar structure;

## **2. Delegation**

The municipal manager may delegate any power or duty conferred in this bylaw to any municipal official.

## **3. Maximum number of visitors**

- (1) The municipal manager determines the maximum number of visitors who may be present at a specific time in or at a public amenity; provided that different numbers may so be determined for different public amenities.
- (2) The numbers contemplated in subsection (1) are made known by the municipal manager by means of a notice.

## **4. Admission to and sojourn in a public amenity**

- (1) A public amenity is, subject to the provisions of these by-laws, open to the public on the times determined by the municipal manager; provided that different times may be determined in respect of different public amenities.
- (2) No visitor may enter or leave a public amenity at a place other than that indicated for that purpose.
- (3) The times and places contemplated in subsections (1) and (2) shall be made known by the municipal manager by means of a notice.

## **5. Entrance fees**

- (1) A visitor to a public amenity shall, where required, pay the entrance fees determined from time to time by the Council in terms of its tariffs by-law:-
- (2) The entrance fees contemplated in subsection (1) shall be made known by means of a notice.

## **6. Nuisances**

Subject to the provisions of the by-law relating to the prevention of public nuisances; by-law relating to fireworks and the by-law relating to air quality control, no one may perform or permit any of the following acts to be performed in or at a public amenity:-

- (a) the use of language or the performance of any other act with the purpose of disturbing the good order;
- (b) the firing of firearms, airguns, air pistols, fireworks or the use of sling-shots or catapults;
- (c) the burning of rubble or refuse;
- (d) the causing of unpleasant or offensive smells;
- (e) the production of smoke nuisances; or
- (f) the causing of disturbances by fighting, shouting, arguing, singing or the playing of musical instruments, or the use of loudspeakers, radio reception devices, television sets, or similar equipment.

## **7. Health matters**

Subject to the provisions of the by-law relating to the prevention of public nuisances and the by-law on refuse removal, refuse dumps and solid waste disposal and the by-law relating to the management of rivers, no one may in or at a public amenity:-

- (a) dump, drop or place refuse, rubble, litter, materials or an object or thing or permit it to be done, except in a container provided for that purpose in or at the amenity;
- (b) pollute or contaminate in any way the water in a bath, swimming-bath, dam, spruit, river or water-course;
- (c) enter a bath or swimming-bath while suffering from an infectious or contagious disease or having an open wound on the body;
- (d) perform any act that may detrimentally affect the health of a visitor to a public amenity.

## **8. Structures**

No one may, without the written consent of the municipal manager having first been obtained, erect or establish in or on a public amenity a structure, shelter or anything else, except the parking of a caravan or tent erected for camping purposes on a site specifically set aside therefor by notice.

## **9. Liquor and food**

- (1) No one may, contrary to a notice, bring into a public amenity alcoholic or any other liquor or food of whatever nature.
- (2) Subject to the provisions of subsection (1) no person shall on, in or at a public amenity, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice; provided that the preparation and cooking of food in or at a public amenity shall be done in a clean and sanitary manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health; provided further that no live animals, poultry or fish may be killed or skinned on, in or at a public amenity.

## **10. Animals**

- (1) Subject to the provisions of the by-law relating to the prevention of public nuisances, no

one may bring a live animal, bird, fish or poultry into a public amenity except in accordance with the directions of the municipal manager; provided that different directions may so be determined in respect of different public amenities and different types of animals, birds, fish and poultry.

- (2) The directions contemplated in subsection (1), shall be made known by means of a notice.

## **11. Loitering and Begging**

Subject to the provisions of the by-law relating to the prevention of public nuisances, no one may in a public amenity beg for money or goods, loiter, saunter or illegally remain with the intention of living or sleeping there.

## **12. Utilization of public amenities**

- (1) Subject to the provisions of the by-law relating to the prevention of public nuisances and the by-law relating to events, no one may, without the consent of the municipal manager, or contrary to any conditions which the municipal manager may impose when granting such consent:-

- (a) arrange, present or attend any public entertainment;
- (b) collect money or any other goods for charity or any other purpose from the general public;
- (c) display or distribute any pamphlet, placard, painting, book, handbill or any other printed, written or painted work;
- (d) arrange, hold, address or attend any meeting;
- (e) arrange, hold or attend a public gathering or procession, exhibition or performance;
- (f) conduct any trade, occupation or business;
- (g) display, sell or rent or present for sale or rent any wares or articles;
- (h) hold or attend an auction;
- (i) tell fortunes for compensation, in or at a public amenity.

- (2) For the purposes of this by-law “public gathering” or “procession” shall mean a procession or gathering of 12 or more persons, and which is not regulated by national or provincial legislation.

- (3) Permission to in subsection (1) shall be refused if the municipal manager is of the opinion that:-

- (a) it would give rise to:-
  - (i) public uproar;
  - (ii) public disturbance;
  - (iii) the commission of an offense;
  - (iv) the performance of an indecent act;

- (b) it would be detrimental to the public or the users of or visitors to public amenity;  
or
  - (c) it would be detrimental for the public convenience.
- (4) A person who requires the written permission of the municipal manager for any act referred to in subsection (1) shall, at least thirty (30) calendar days before such action in writing on the form provided for the purpose, apply to the municipal manager.

### **13. Safety and order**

Subject to the provisions of the by-law relating to the prevention of public nuisances, the by-law relating to fireworks and the by-law relating to air quality control, no one may, in or at a public amenity:-

- (a) damage or disfigure anything within such amenity;
- (b) use or try to use anything within such amenity for any purpose other than that for which it is designated or determined by notice;
- (c) light a fire or barbecue meat, except at a place indicated for that purpose by notice;
- (d) throw away any burning or smouldering object;
- (e) throw or roll down any rock, stone or object from any mountain, koppie, slope or cliff;
- (f) pull out, pick or damage any tree, plant, shrub, vegetation or flower;
- (g) behave in an improper, indecent, unruly, violent or unbecoming manner;
- (h) cause a disturbance;
- (i) wash, polish or repair a vehicle; provided that the foregoing provision of this paragraph shall not be applicable to the emergency repair of a vehicle;
- (j) walk, stand, sit or lie in a flower bed;
- (k) kill, hurt, follow, disturb, ill-treat or catch an animal, bird or fish or displace, disturb, destroy or remove bird nests or eggs;
- (l) walk, stand, sit or lie on grass contrary to the provision of a notice;
- (m) lie on a bench or seating-place or use it in such a manner that other users or potential users find it impossible to make use thereof;
- (n) play or sit on play park equipment, except if the person concerned is a child under the age of 13 years; or
- (o) swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond.

### **14. Water**

Subject to the provision of the by-law relating to water, sanitation and industrial effluent and the by-law relating to the prevention of public nuisances, no one may misuse, pollute or contaminate

a water source or water supply or waste water in or at a public amenity.

#### **15. Laundry and crocker**

Subject to the provisions of the by-law relating to the prevention of public nuisances no one may in or at a public amenity wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose.

#### **16. Vehicles**

- (1) No person may bring into a public amenity a truck, bus, motorcar, motor cycle, motor tricycle, bicycle or any other vehicle, craft or airplane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the municipal manager; provided that different directions may be determined for different public amenities and for different vehicles, craft or airplanes.
- (2) The municipal manager may determine the speed limit applicable in a public amenity; provided that different speed limits may be determined for different public amenities and for different types of vehicles.
- (3) The directions contemplated in subsection (1) and the speed limit contemplated in subsection (2) shall be made known by the municipal manager by way of notice.

#### **17. Games**

No game of any nature may be played or conducted in or on a public amenity by anyone except at places set aside for that purpose by notice and in accordance with the directions of the municipal manager and which is made known by way of notice.

#### **18. Improper or indecent behavior**

Subject to the provisions of the by-law relating to the prevention of public nuisances, no one may in or at a public amenity:-

- (a) commit an act which in the opinion of the municipal manager or the authorised official is indecent or behave improper by exposing his/her body or otherwise, or making improper gestures, or incite or urge someone to perform a disorderly or indecent act;
- (b) use foul, lewd, dirty or indecent language;
- (c) write, paint, draw or in any way make a filthy or immoral figure, writing, drawing or representation;
- (d) defecate, urinate or undress, except in such building or on a premises intended or indicated by notice for such purpose or enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex.

#### **19. Clothing**

Visitors to or a user of a public amenity must at all times be clothed decently in public.

#### **20. Authority of the person in control**

The authorised official may:-

- (a) At any time enter upon any place, land, premises or building on the public amenity and investigate it in order to determine whether the provisions of this By-Law is complied with; and-
- (b) for the better exercise of any power or performing any function or duty conferred upon him or her take an interpreter that, while under the lawful order of such a person shall have the same powers, functions and duties as such a person.

## **21. Powers of official and offences**

The authorised official may investigate any act or omission which on reasonable suspicion may constitute an offence in which case he or she may:-

- (a) issue a notice of compliance setting out the nature of the offence committed and the steps necessary to remedy the situation;
- (b) request the offender to leave the amenity; or
- (c) if he is a peace officer, issue a fine in terms of the Criminal Procedures Act, 1977.

## **22. Appeal**

A person whose rights are affected by a delegated decision in terms of this By-Law may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

## **23. Offences and Penalties**

- (1) A person who contravenes any provision or fails to comply with any provision of this By-Law, or fails to comply with a notice issued in terms of this By-Law, commits an offence and shall on conviction be liable to:-
  - (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment; and
  - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
  - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as result of such contravention or failure.
- (2) A person commits an offence if he or she:-
  - (a) threatens, resists, hinders, obstructs or otherwise interferes with, or who uses foul or abusive language towards or at an employee or contractor of the Municipality in the exercise of any powers or performance of any duty or function in terms of this By-law; or
  - (b) impersonates an employee or contractor of the Municipality.

## **24. Limitation of liability**

The municipality is not liable for any damage or loss caused by:-

- (a) the exercise of any power or the performance of any duty in good faith under this by-law;  
or
- (b) the failure to exercise any power, or perform any function or duty in good faith under this by-law.

## **25. Authentication and service of notices and other documents**

- (1) A notice issued by the municipality in terms of this By-law is considered to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person is considered as duly served:-
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
  - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the land or business premises to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is considered to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

## **26. Conflict with other legislation**

- (1) In the event of any conflict between any provision of this By-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail subject to section 151(3) and 156(4) of the Constitution.
- (2) In the event of an inconsistency between the different texts The English text shall prevail.

## **27. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the Municipality or by any of the

disestablished municipalities now incorporated in the Municipality, are hereby repealed as far as they relate to matters provided for in this By-law.

**28. Short title and commencement**

This By-law is called the Swellendam Municipality By-Law on Public Amenities and commences on the date of publication thereof in the Provincial Gazette.

## SWELLENDAM MUNISIPALITEIT

### VERORDENING INSAKE OPENBARE GERIEWE

Om die gebruik van munisipale parke en ontspanning, openbare plekke, plaaslike geriewe, plaaslike sportgeriewe, strande en vermaaklikheidsgeriewe en openbare geriewe te reguleer; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

#### AANHEF

AANGESIEN artikel 156 (2) en (5) van die Grondwet bepaal dat 'n munisipaliteit verordeninge mag uitvaardig en administreer vir die doeltreffende administrasie van die aangeleenthede wat hy die reg het om te administreer, en enige bevoegdheid uit te oefen met betrekking tot 'n aangeleentheid wat redelikerwys nodig is vir, of verband hou met die doeltreffende verrigting van sy funksies;

EN NADEMAAL Deel B van Bylae 5 van die Grondwet munisipale parke en ontspanning, openbare plekke, plaaslike geriewe, plaaslike sportgeriewe en strande en vermaaklikheidsgeriewe lys as 'n plaaslike regeringsaangeleentheid in die mate soos uiteengesit in artikel 155 (6) (a) en (7);

EN NADEMAAL die Swellendam Munisipaliteit poog om die gebruik van munisipale parke en ontspanning, openbare plekke, plaaslike geriewe, plaaslike sportgeriewe en strande en vermaaklikheidsgeriewe te reguleer;

VERORDEN die Swellendam Munisipale Raad soos volg:—

#### 1. Woordskrywing:-

In hierdie verordening, tensy uit die samehang anders blyk, beteken:-

**"gemagtigde beampte"** beteken enige beampte van die munisipaliteit wat gemagtig is om 'n openbare gerief te bestuur of om die bepalings van hierdie verordening af te dwing;

**"kenningsgewing"** 'n kenningsgewing wat in opdrag van die munisipale bestuurder by elke ingang tot of op 'n opsigtelike plek in, by of op 'n openbare gerief aangebring is, en waarin die bepalings of voorskrifte vir toegang tot die openbare gerief ingevolge hierdie verordening bekend gemaak word;

#### **"openbare gerief"**

- (a) enige grond, plein, kampeerterrein, swembad, strand, swem area, sport veld, openbare oord, openbare oop ruimte, ontspanning, rivier, natuurreservaat, diere-, botaniese of ander tuin of park of staproete, insluitend enige gedeelte daarvan en enige fasiliteit of apparaat daarin of daarop, wat die eiendom is van, of besit, beheer of gehuur word deur die munisipaliteit en waartoe die algemene publiek toegang het, hetsy teen betaling van toegangsgelde of nie, maar met uitsluiting van 'n openbare pad of straat;
- (b) 'n gebou, struktuur, saal of kantoor, insluitend enige gedeelte daarvan of enige fasiliteit of apparaat daarin, wat die eiendom is van, of besit, beheer of gehuur word deur die munisipaliteit en waartoe die algemene publiek toegang het, hetsy teen betaling van toegangsgelde al dan nie; en:-
- (c) 'n openbare gerief in paragrawe (a) en (b) indien dit wettiglik beheer of bestuur word in terme van 'n ooreenkoms tussen 'n persoon en die Munisipaliteit:-

- (d) 'n fasiliteit in paragrawe (a) tot (c), in die see, tussen die hoë en lae water merke van 'n strand, of op 'n gebied direk aangrensend aan die see, en sluit 'n paviljoen, pont, jetty, of soortgelyke struktuur in;

**"Munisipaliteit"** beteken die Swellendam Munisipaliteit ingestel ingevolge Artikel 12 van die Wet op Plaaslike Regering: Wet op Munisipale Strukture, 1998 (117 van 1998), en sluit alle politieke strukture, politieke ampsdraers, raadslede, behoorlik gemagtigde agente of alle werknemers in wat ingevolge hierdie verordening optree uit hoofde van 'n bevoegdheid wat by die Munisipaliteit berus en aan sodanige politieke struktuur, politieke ampsdraer, raadslid, agent of werknemer gedelegeer of gesubdelegeer is;

**"munisipale bestuurder"** die persoon wie as die munisipale bestuurder van die munisipaliteit aangestel ingevolge die bepalings van artikel 82 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998) en sluit enige persoon in:

- (a) wat in sodanige pos waarneem; en
- (b) aan wie die munisipale bestuurder enige magte, funksie of pligte delegeer het in soverre dit die uitvoering van daardie magte, funksie of pligte aangaan;

**"Raad"** die Munisipale Raad van die Munisipaliteit van Swellendam, of enige politieke struktuur, politieke ampsbekleër, raadslid, behoorlik gemagtigde agent daarvan of amptenaar van die Raad, aan wie 'n bevoegdheid of plig ingevolge die bepalings van hierdie verordening gedelegeer of gesubdelegeer is.

## **2. Delegasie**

Die munisipale bestuurder mag enige bevoegdheid of funksie wat in die verordening verleen word, delegeer aan enige munisipale beampte.

## **3. Maksimum getal besoekers**

- (1) Die munisipale bestuurder mag die maksimum getal besoekers wat op 'n bepaalde tydstip in of by 'n openbare gerief aanwesig mag wees, bepaal; met dien verstande dat verskillende getalle vir verskillende openbare geriewe aldus bepaal kan word.
- (2) Die getalle in subartikel (1) bedoel, word deur die munisipale bestuurder bekend gemaak by wyse van 'n kennisgewing.

## **4. Toegang tot en verblyf in 'n openbare gerief**

- (1) 'n Openbare gerief is, behoudens die bepalings van hierdie verordeninge, oop vir die publiek op die tye wat die munisipale bestuurder bepaal; met dien verstande dat verskillende tye vir verskillende openbare geriewe aldus bepaal kan word.
- (2) Geen besoeker mag 'n openbare gerief binnegaan of verlaat op 'n ander plek as die wat vir daardie doel aangedui is nie.
- (3) Die tye en plekke in subartikel (1) en (2) bedoel, word deur die munisipale bestuurder by wyse van 'n kennisgewing bekend gemaak.

## **5. Toegangsgelde**

- (1) 'n Besoeker aan 'n openbare gerief betaal die toegangsgelde wat van tyd tot tyd deur die Raad vasgestel word ooreenkomstig die verordening op tariewe;

- (2) Die toegangsgelde in subartikel (1) bedoel, word deur die Raad bekend gemaak by wyse van 'n kennisgewing.

## **6. Oorlaste**

Behoudens die bepalings van die verordening op die bekamping van openbare oorlaste, verordening op vuurwerke en die verordening op lugkwaliteitsbeheer, mag geen persoon in of by 'n openbare gerief enige van die volgende handeling verrig of toelaat dat dit verrig word nie:-

- (a) die gebruik van taal of die verrigting van enige ander handeling wat daarop bereken is om die goeie orde te versteur;
- (b) die afvuur van vuurwapens, windbukse, windpistole, vuurwerke of die gebruik van rekkers, slingervelle of katapulte;
- (c) die verbrand van rommel of vullis;
- (d) die veroorsaking van onaangename of aanstootlike reuke;
- (e) die verwekking van rookoorlaste; of
- (f) die veroorsaking van steurings deur bakleiery, geskree, getwis of gesing of die bespeling van musiekinstrumente, of die gebruik van luidsprekers, radioontvangstoestelle, televisiestelle of soortgelyke toerusting.

## **7. Gesondheidsaangeleenthede**

Behoudens die bepalings van die verordening op die bekamping van openbare oorlaste en die verordening op vullisverwydering, vullishope en die wegdoen van vaste afvalstowwe en die verordening op die bestuur van riviere, mag geen persoon in of by 'n openbare gerief:-

- (a) enige vullis, afvalstof, materiaal of enige stof of ding stort, laat val of neersit of toelaat dat dit gedoen word, behalwe in 'n houer wat vir daardie doel in of op die gerief verskaf is nie;
- (b) op enige wyse die water in enige bad, swembad, dam, spruit, rivier of waterloop besmet of besoedel nie;
- (c) in enige bad of swembad gaan nie terwyl hy of sy aan 'n besmetlike of aansteeklike siekte ly of oop wonde aan die liggaam het nie;
- (d) enige handeling verrig wat die gesondheid van enige besoeker aan 'n openbare gerief kan benadeel nie.

## **8. Strukture**

Geen persoon mag sonder die voorafverkreë skriftelike toestemming van die munisipale bestuurder enige struktuur, skerm of enigiets anders, behalwe die parkering van 'n woonwa of tent wat vir kampeerdoeleindes opgerig is op 'n terrein wat spesifiek by kennisgewing daarvoor afgesonder is, in of op 'n openbare gerief oprig of aanbring nie.

## **9. Drank en voedsel**

- (1) Geen persoon mag in stryd met 'n bepaling van 'n kennisgewing enige alkoholiese of enige ander drank of enige voedsel van welke aard ook al in 'n openbare gerief inbring nie.

- (2) Behoudens die bepalings van subartikel (1), mag geen persoon op, in of by 'n openbare gerief in stryd met 'n bepaling van 'n kennisgewing enige voedsel van welke aard ook al gaarmaak of voorberei nie, behalwe op plekke wat vir so 'n doel by kennisgewing afgesonder is; met dien verstande dat die voorbereiding en gaarmaak van voedsel in of by 'n openbare gerief op 'n skoon en sanitêre wyse moet plaasvind sodat dit nie aanleiding gee tot buitensporige rook of ander oorlaste, of enige gevaar vir die gesondheid inhou nie; met dien verstande voorts dat geen lewendige diere, pluimvee of visse op, in of by 'n openbare gerief doodgemaak of afgeslag mag word nie.

#### **10. Diere**

- (1) Behoudens die bepalings van die verordening op die bekamping van openbare oorlaste mag geen persoon enige lewendige dier, voël, vis of pluimvee in 'n openbare gerief inbring nie behalwe ooreenkomstig voorskrifte van die munisipale bestuurder; met dien verstande dat verskillende voorskrifte ten opsigte van verskillende openbare geriewe en verskillende soorte diere, voëls, visse of pluimvee aldus bepaal kan word.
- (2) Die voorskrifte in subartikel (1) bedoel, word by wyse van kennisgewing bekend gemaak.

#### **11. Leeglêery en bedel**

Behoudens die bepalings van die verordening op die bekamping van openbare oorlaste mag geen persoon in 'n openbare gerief geld of goedere bedel, leeglê, rondsletter of vertoef met die doel om ongemagtig daar te woon of slaap nie.

#### **12. Gebruik van openbare geriewe**

- (1) Behoudens die bepalings van die verordening op die bekamping van openbare oorlaste en die verordening op geleenthede, mag geen persoon sonder die toestemming van die munisipale bestuurder, of in stryd met enige voorwaarde wat hy/ sy by die verlening van sodanige toestemming mag opleë, in of by 'n openbare gerief:-
- (a) 'n openbare vermaaklikheid reël, aanbied of bywoon nie;
  - (b) geld of enige ander goedere vir liefdadigheid of enige ander doel van die algemene publiek insamel nie;
  - (c) enige pamflet, plakaat, skildery, boek, strooibiljet of enige ander gedrukte, geskrewe of geskilderde werk vertoon of versprei nie;
  - (d) enige vergadering reël, hou, toespreek of bywoon nie;
  - (e) 'n openbare byeenkoms of optog, uitstalling of uitvoering reël, hou of bywoon nie;
  - (f) enige ambag, beroep of besigheid bedryf nie;
  - (g) enige ware of artikel uitstal, verkoop of verhuur of te koop of te huur aanbied nie;
  - (h) 'n veiling hou of bywoon nie;
  - (i) teen vergoeding waarsêery beoefen nie.
- (2) By die toepassing van hierdie verordening beteken "openbare byeenkoms of "optog" 'n byeenkoms of optog van 12 of meer persone en wat nie deur provinsiale of nasionale wetgewing reguleer word nie.

- (3) Toestemming in subartikel (1) bedoel, word geweier indien die munisipale bestuurder van oordeel is dat –
- (a) dit aanleiding sal gee tot:-
    - (i) openbare oproer;
    - (ii) openbare rusverstoring;
    - (iii) die pleeg van 'n misdryf;
    - (iv) die verrig van 'n onweloweglike daad;
  - (b) dit skadelik vir die publiek of die verbruikers van of besoekers aan die openbare gerief sal wees; of
  - (c) dit skadelik vir die betrokke openbare gerief sal wees.
- (4) 'n Persoon wat die skriftelike toestemming van die munisipale bestuurder vir enige handeling in subartikel (1) bedoel, verlang, moet minstens dertig (30) kalender dae voor sodanige handeling skriftelik op die vorm wat vir die doel voorsien word, by die munisipale bestuurder aansoek doen.

### **13. Veiligheid en orde**

Behoudens die bepalings van die verordening op die bekamping van openbare oorlaste en die verordening op vuurwerke en die verordening op lugkwaliteitsbeheer, mag geen persoon in of by 'n openbare gerief:-

- (a) enigiets binne so 'n gerief beskadig of ontsier nie;
- (b) enigiets binne so 'n gerief gebruik of poog om dit te gebruik vir 'n ander doel as waarvoor dit bestem of by kennisgewing bepaal is nie;
- (c) 'n vuur aansteek of vleis braai nie, behalwe op 'n plek wat vir daardie doel by kennisgewing aangedui is;
- (d) enige brandende of smeulende voorwerp weggooi nie;
- (e) enige rots, klip of voorwerp van enige berg, koppie, skuinste, krans of wal gooi of afrol nie;
- (f) enige boom, plant, struik, gewas of blom uittrek, pluk of beskadig nie;
- (g) hom 'n onbehoorlike, onfatsoenlike, oproerige, geweldadige of onbetaamlike wyse gedra nie;
- (h) 'n steurnis veroorsaak nie;
- (i) 'n voertuig was, poleer of herstel nie; met dien verstande dat die voorgaande bepalings van hierdie subparagraaf nie van toepassing is op die noodherstel van 'n voertuig nie;
- (j) in 'n blombedding loop, staan, sit of lê nie;

- (k) enige dier, voël of vis doodmaak, beseer, agtervolg, pla, mishandel of vang of 'n voëlnek of eiers verplaas, versteur, vernietig of verwyder nie;
- (l) in stryd met 'n bepaling van 'n kennisgewing op gras loop, staan, sit of lê nie;
- (m) op 'n bank of sitplek lê of dit op so 'n wyse gebruik dat ander gebruikers of voornemende gebruikers dit onmoontlik vind om daarvan gebruik te maak nie;
- (n) op speelparktoerusting speel of sit nie, behalwe indien die betrokke persoon 'n kind onder die ouderdom van 13 jaar is; of
- (o) in stryd met 'n bepaling van 'n kennisgewing in 'n visdam, spuitfontein, stroom of poel, swem, loop of speel nie.

#### **14. Water**

Behoudens die bepalings van die verordening op die bekamping van openbare oorlaste en die verordening op water- en sanitasiedienste en nywerheidsuitvloei mag geen persoon in of by enige openbare gerief enige waterbron of watertoevoer misbruik, besmet of besoedel, of water vermors nie.

#### **15. Wasgoed en skottelgoed**

Behoudens die bepalings van die verordening op die bekamping van openbare oorlaste mag geen persoon in of by 'n openbare gerief enige skottelgoed of wasgoed was of klere uithang nie, behalwe op plekke wat vir daardie doel by 'n kennisgewing aangedui is.

#### **16. Voertuie**

- (1) Geen persoon mag enige vragmotor, bus, motorkar, motorfiets, motordriewiel, fiets of enige ander voertuig, vaartuig of vliegtuig hetsy by wyse van meganiese, dierlike, natuurlike of menslike krag aangedryf, in 'n openbare plek inbring nie, behalwe ooreenkomstig die voorskrifte van die munisipale bestuurder; met dien verstande dat verskillende voorskrifte ten opsigte van verskillende openbare geriewe en verskillende sodanige voertuie, vaartuie of vliegtuie aldus bepaal kan word.
- (2) Die munisipale bestuurder kan die snelheidsgrens wat van toepassing is in 'n openbare gerief bepaal; met dien verstande dat verskillende snelheidsgrense ten opsigte van verskillende openbare geriewe en verskillende sodanige voertuie, vaartuie of vliegtuie aldus bepaal kan word.
- (3) Die voorskrifte in subartikel (1) bedoel en die snelheidsgrens in subartikel (2) bedoel, word by wyse van kennisgewing deur die Munisipaliteit bekend gemaak.

#### **17. Spele**

Geen spel van welke aard ook al mag in of op 'n openbare gerief gespeel of bedryf word deur enige persoon of persone nie, behalwe op die plekke wat vir daardie doel by kennisgewing afgesonder is en ooreenkomstig die voorskrifte van die munisipale bestuurder wat by wyse van kennisgewing aldus bekend gemaak word.

#### **18. Onbetaamlike en onweloweglike gedrag**

Behoudens die bepalings van die verordening op die bekamping van openbare oorlaste mag geen persoon in of by 'n openbare gerief:-

- (a) 'n daad verrig wat na die mening van die munisipale bestuurder of die gemagtigde beampte, onweloweglik is of hom op onbetaamlike wyse gedra deur blootstelling van sy persoon of andersins, of onbetaamlike gebare maak of iemand uitlok of aanspoor om 'n wanordelike of onweloweglike daad te verrig nie;
- (b) liederlike, onkuise, vuil of onfatsoenlike taal besig nie;
- (c) 'n liederlike of onsedelike figuur, geskrif, tekening of voorstelling skryf, verf, teken of op enige wyse maak nie;
- (d) ontlas, urineer of ontklee nie behalwe in 'n gebou of op 'n perseel wat vir daardie doel bestem of by kennisgewing aangedui is, of 'n toiletgerief wat vir lede van die teenoorgestelde geslag bedoel of as sodanig by kennisgewing aangedui is, binnegaan of gebruik nie.

## **19. Kleredrag**

'n Besoeker aan of 'n gebruiker van 'n openbare gerief moet te alle tye in die openbaar weloweglik geklee wees.

## **20. Bevoegdhede van 'n persoon in beheer**

Die gemagtigde beampte kan:-

- (a) in 'n openbare gerief te eniger tyd enige plek, grond, perseel of gebou betree en aldaar ondersoek instel ten einde vas te stel of die bepalings van hierdie verordeninge nagekom word;
- (b) vir die beter uitoefening van enige bevoegdheid, of die uitvoering van enige funksie of plig aan hom/ haar verleen of opgedra, 'n tolk saamneem wat, terwyl hy onder die wettige bevel van so 'n persoon optree, dieselfde bevoegdhede, funksies en pligte as so 'n persoon het.

## **21. Bevoegdhede van beampte en oortredings**

Die gemagtigde beampte mag enige handeling of versuim ondersoek wat redelikerwys vermoed word 'n misdryf te wees en mag:-

- (a) 'n kennisgewing van nakoming uitreik waarin die beweerde oortreding uiteengesit word asook die stappe om dit reg te stel;
- (b) die oortreder versoek om die openbare gerief te verlaat; of
- (c) indien hy 'n vredesbeampte is, 'n boete uitreik ingevolge die Strafproseswet, 1977.

## **22. Appèl**

Iemand wie se regte geraak word deur 'n gedelegeerde besluit wat ingevolge hierdie Verordening geneem word, kan teen dié besluit appelleer deur skriftelike kennisgewing van sy of haar voorneme om te appelleer en die redes daarvoor aan die munisipale bestuurder voorlê ingevolge artikel 62 van die Plaaslike Regering: Munisipale Stelselwet, 2000 (Wet 32 van 2000).

## **23. Strafbepalings**

- (1) 'n Persoon wat enige bepaling van hierdie Verordening oortree of versuim om daaraan te voldoen of versuim om te voldoen aan 'n kennisgewing uitgereik ingevolge hierdie

Verordening, pleeg 'n misdryf en kan by skuldigbevinding:-

- (a) 'n boete of gevangenisstraf opgelê word, of sodanige boete of gevangenisstraf, of beide sodanige boete en sodanige gevangenisstraf; en
  - (b) in die geval van 'n voortgesette misdryf, 'n bykomende boete of 'n bykomende tydperk van gevangenisstraf of sodanige bykomende gevangenisstraf sonder die opsie van 'n boete of beide sodanige bykomende boete en gevangenisstraf vir elke dag waarop sodanige misdryf voortduur; en
  - (c) 'n verdere bedrag gelyk aan enige koste en uitgawes wat die hof bevind deur die Munisipaliteit aangegaan is weens sodanige oortreding of versuim.
- (2) 'n Persoon pleeg 'n misdryf indien hy of sy:-
- (a) 'n werknemer of kontrakteur van die Munisipaliteit in die uitvoering van enige magte of die verrigting van enige funksie of plig ingevolge hierdie verordening dreig, teenstaan, hinder, belemmer of hom of haar andersins pla of vuil taal of skeltaal teenoor hom of haar gebruik; of
  - (b) hom of haar as 'n werknemer of kontrakteur van die Munisipaliteit voordoen.

#### **24. Beperking van aanspreeklikheid**

Die munisipaliteit is nie aanspreeklik nie vir enige skade of verlies wat veroorsaak is deur:-

- (a) die uitoefening van enige bevoegdheid of die verrigting van enige plig te goeder trou ingevolge hierdie verordening; of
- (b) die versuim om enige bevoegdheid uit te oefen of om enige funksie of plig te goeder trou ingevolge hierdie verordening te verrig.

#### **25. Bekragtiging en dien van kennisgewings en ander dokumente**

- (1) 'n Kennisgewing wat ingevolge hierdie verordening deur die munisipaliteit uitgereik word, word geag behoorlik uitgereik te wees indien 'n beampte wat deur die munisipaliteit gemagtig is, dit onderteken het.
- (2) Enige kennisgewing of ander dokument wat ingevolge hierdie verordening op 'n persoon beteken word, word geag as behoorlik gedien:-
  - (a) wanneer dit persoonlik by daardie persoon afgelewer is;
  - (b) wanneer dit by daardie persoon se verblyfplek of sakeonderneming in die Republiek gelaat is by 'n persoon wat oënskynlik ouer as sestien jaar is;
  - (c) wanneer dit per geregistreerde of gesertifiseerde pos gestuur is aan daardie persoon se jongs-bekende residensiële of sake-adres in die Republiek, en bevestiging van die pos daarvan by die posdiens verkry is;
  - (d) indien daardie persoon se adres in die Republiek onbekend is, wanneer dit op daardie persoon se agent of verteenwoordiger in die Republiek beteken is op die wyse bepaal in paragrawe (a), (b) of (c);
  - (e) indien die betrokke persoon se adres en agent of verteenwoordiger in die Republiek onbekend is, wanneer dit op 'n prominente plek op die grond of sakeperseel waarop dit betrekking het, aangebring is;

- (f) in die geval van 'n bestuursliggaam, wanneer dit by die geregistreerde kantoor van die sakeperseel van sodanige bestuursliggaam afgelewer is; of
  - (g) wanneer dit op versoek van die betrokke persoon by sy of haar e-posadres afgelewer is.
- (3) Die dien van 'n afskrif word geag die dien van die oorspronklike te wees.
- (4) Wanneer enige kennisgewing of ander dokument op die eienaar, okkuperder of houer van enige eiendom, of reg op 'n eiendom, beteken word, is dit toereikend indien die betrokke persoon in die kennisgewing of ander dokument beskryf word as die eienaar, okkuperder of houer van die eiendom of die betrokke reg, en is dit nie nodig om die naam van die persoon te verstrek nie.

## **26. Teenstrydigheid met ander wetgewing**

- (1) In die geval van teenstrydigheid tussen enige bepaling van hierdie Verordening en Nasionale- en Provinsiale wetgewing, standaard, beleid of riglyne, sal sodanige Nasionale- en Provinsiale wetgewing, standaard, beleid of riglyne voorrang geniet onderhewig aan artikels 151(3) en 156(4) van die Grondwet.
- (2) In die geval van enige teenstrydigheid tussen verskillende vertalings geld die Engelse teks.

## **27. Herroeping van verordeninge**

Die bepalings van enige verordeninge wat voorheen deur die Munisipaliteit of deur enigeen van die afgeskafte munisipaliteite wat nou in die Munisipaliteit geïnkorporeer is, afgekondig is, word hiermee herroep insoverre hulle betrekking het op sake waarvoor daar in hierdie Verordening voorsiening gemaak word.

## **28. Kort titel en inwerkingtreding**

Hierdie Verordening is die Swellendam Munisipale Verordening insake Openbare Geriewe en tree in werking op die datum van publikasie in die Provinsiale Koerant.